

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
Group Art Unit 3626

Appl. No. : 09/997,962
Confirmation No. : 4898
Applicant : Robert Hanson et al.

Filing Date : November 29, 2001
Title : Drug Delivery Device
Incorporating a Tracking Code

Examiner : Dilek B. Cobanoglu

PETITION UNDER 37 C.F.R. § 1.47(a)

Applicants respectfully request acceptance of the above-identified application without the participation of Don Detar and Robert Hanson, named joint inventors, under 37 C.F.R. § 1.47(a).

Applicants are submitting the following in support of this Petition:

- 1) the signed Declaration of the available joint inventor as required by 37 C.F.R. § 1.64 with the signature blocks of the non-signing inventors left blank;
- 2) a Declaration of Tom Cleveland setting forth pertinent facts required under 37 C.F.R. § 1.47(a); and
- 3) a Declaration of Molly S. Lawson setting forth pertinent facts required under 37 C.F.R. § 1.47(a).

The last-known addresses of the non-signing joint inventors are:

Mr. Don Detar
4211 Weston Drive SW
Lilburn, GA 30047

Mr. Robert Hanson
5713 Regency Ct N
Mobile, AL 36609

The required fee under 37 C.F.R. § 1.47(a) and 37 C.F.R. § 1.17(g) is being submitted with this Petition. Charge or credit Deposit Account No. 13-3080 with any shortage or overpayment of the required fee.

Respectfully submitted,

/molly s. lawson/

Molly S. Lawson
Reg. No. 58,890

Docket No. 026436-9073-US01
Michael Best & Friedrich LLP
100 East Wisconsin Avenue, Suite 3300
Milwaukee, Wisconsin 53202-4108
414.271.6560

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
Group Art Unit 3626

Appl. No. : 09/997,962
Confirmation No. : 4898
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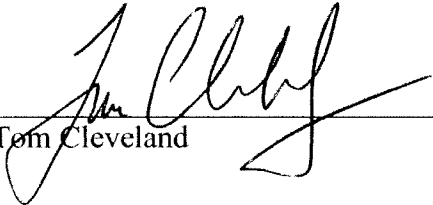
DECLARATION OF TOM CLEVELAND

I, Tom Cleveland, hereby declare:

1. I am employed by Merge Healthcare, Inc. ("Merge"), the parent company of the assignee of the above-identified patent application (hereinafter the "Application") based on the assignment filed October 19, 2010 at reel 025156 and frame 0651. I am a Canadian citizen. I have firsthand knowledge of the following facts.
2. The inventors of the Application are Robert Hanson, Barry Sudduth, and Don Detar (hereinafter the "Inventors").
3. In my capacity as Intellectual Property Director of Merge, I called Mr. Detar at his last-known home address on or before December 2, 2011, and left a voicemail message. On December 2, 2011, I received an email from Mr. Detar in response to my voicemail message confirming his involvement in the Application and seeking additional information (a copy of the email is in the email chain attached as Exhibit A).

4. On December 2, 2011, I sent Mr. Detar an email explaining the situation and sending Mr. Detar copies of the Notice of Allowance for the Application, the allowed claims of the Application, and a Declaration form for the Application for his signature (see Exhibit A).
5. On January 3, 2012, I sent Mr. Detar a follow-up email asking if he had reviewed the documents I sent on December 2, 2011 (see Exhibit A). On January 3, 2012, I received a reply email from Mr. Detar indicating his refusal to sign the Declaration form and be involved in the patent (see Exhibit A). I forwarded this email to Attorney of Record Molly S. Lawson on January 4, 2012 (see Exhibit A).
6. On December 21, 2011, I called the telephone number for ShareSafe Media (615-690-7840), on whose website Mr. Hanson is listed as the Chief Executive Officer (screen shots of ShareSafe Media's websites are attached as Exhibit B). I left a voicemail message. I did not receive a response to the message.
7. On December 21, 2011, I left a webform information request on the ShareSafe Media website leaving my contact information and asking Mr. Hanson to contact me. I did not receive a response to my request.
8. On January 3, 2012, I contacted Mr. Hanson at his last-known home phone number and was told that Mr. Hanson was not currently available but would be available in about one hour. I called back later the same day three times with no answer and I was unable to leave a message due to the voicemail box being full. I called again on January 4, 2012, and was again unable to leave a message due to the voicemail box being full.
9. On January 4, 2012, I instructed Attorney Lawson to make additional attempts to reach Mr. Hanson.
10. As of the date below, I have received no response from Mr. Hanson to my or Attorney's Lawson's requests.

11. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



Tom Cleveland

JAN 11, 2012

Date

EXHIBIT A

Lawson, Molly S (14749)

From: Tom Cleveland [Tom.Cleveland@Merge.com]
Sent: Wednesday, January 04, 2012 6:39 AM
To: Lawson, Molly S (14749)
Subject: Fwd: Phone message

FYI

Sent from my iPhone

This message is a PRIVATE communication. This message and all attachments are a private communication and may be confidential or protected by privilege. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of the information contained in or attached to this message is strictly prohibited. Please notify the sender of the delivery error by replying to this message, and then delete it from your system. Thank you.

Begin forwarded message:

From: "ddetar@comcast.net" <ddetar@comcast.net>
Date: January 3, 2012 23:23:59 EST
To: Tom Cleveland <Tom.Cleveland@Merge.com>
Subject: Re: Phone message

Tom, I no longer have any involvement with this product and do not want to be involved in any patent documentation.
-Don

From: "Tom Cleveland" <Tom.Cleveland@Merge.com>
To: "ddetar@comcast.net" <ddetar@comcast.net>
Sent: Tuesday, January 3, 2012 11:27:32 AM
Subject: RE: Phone message

Don -- have you had a chance to review? Let me know as documents are due at the Patent Office on the 11th.

Regards

Tom

Tom Cleveland
Director, Intellectual Property

Merge Healthcare
6303 Airport Road
Mississauga Ontario
Canada L4V 1R8

P: 905.364.8114
F: 905.872.7955
M: 416.457.2285
E: tom.cleveland@merge.com

www.merge.com

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From: Tom Cleveland
Sent: Friday, December 02, 2011 10:55 PM
To: 'ddetar@comcast.net'
Subject: RE: Phone message

Hey Don;

Thanks for getting back to me. I look after Patents and Trademarks etc, for Merge Healthcare. A Docusys patent on which you are a listed inventor "Drug Delivery Device Incorporating A Tracking Code" is going to grant shortly, and there is a declaration documents that the USPTO is looking for the inventors to sign. The declaration is normally filed with the application but was not submitted in this case.

I enclose the copy of the issue notice and the claims which will grant, as well as the declaration, which asks you to confirm that you are the inventor.

If you can sign and send the document back electronically, we can submit it to the USPTO.

Let me know if you have any questions.

Thanks.

Tom

Tom Cleveland
Director, Intellectual Property

Merge Healthcare
6303 Airport Road
Mississauga Ontario
Canada L4V 1R8

P: 905.364.8114
F: 905.672.7955
M: 416.457.2285
E: tom.cleveland@merge.com

www.merge.com

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From: ddetar@comcast.net [<mailto:ddetar@comcast.net>]
Sent: Friday, December 02, 2011 2:02 PM
To: Tom Cleveland
Subject: RE: Phone message

Tom,

I received your message on my answering machine. If you are looking for the Don Detar that was part of DocuSys then I may be the person you are looking for. Please send me details of your inquiry.

-Don

EXHIBIT B

Robert Hanson

<http://share-safemedia.com/index.php/robert-hanson>



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Robert Hanson

Chief Executive Officer

Robert Hanson has over 22 years of experience building and advancing successful companies in the healthcare industry. His background includes overseeing and working with organizations from initial startup phase to market leadership. Prior to founding ShareSafe, Hanson served as CEO of DocuSys, an anesthesia information management system and digital drug delivery company. As founder and CEO, Hanson was successful in positioning the company as a market leader and the fastest growing company in the AIMS space.

During his tenure, DocuSys worked with the largest and most successful companies in the healthcare industry, such as McKesson Corporation and Per Se! Technologies. DocuSys executed unique patient safety partnerships with some of the leading physician safety leaders and prestigious hospitals in America, including Johns Hopkins University Quality and Safety Research Group (OSRG), led by its founder and world-renowned patient safety leader, Dr. Peter Pronovost. Hanson also co-created with Dr. Lee Fleischer, Chairman of Anesthesiology and Critical Care, University of Pennsylvania, a first of its kind joint venture with the university's School of Medicine, to establish a Center for Information Technology to advance patient safety in anesthesia and critical care.

Robert Hanson

Donald Weiss

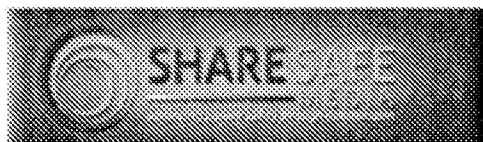
Mark Williams, MD, MBA, JD

Curtis James

Randy Hunter

Eric Vohr

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Offices

ShareSafe Media
2948 Sidco Drive, Suite 205
Nashville, TN 37204

Phone (615) 690-7840

[\[+\] Request information](#)

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Baltimore, MD



Save Lives. Save Money.
Safety Protocols can Improve R.O.I
It is estimated that 100,000 deaths occur each year from preventable medical errors in U.S. hospitals alone, with costs estimated at \$20 billion a year.
[More...](#)



Safe & Proven Protocols
Safety Protocols Can Save Lives
ShareSafe's focus is on proven safety interventions based on "evidence-based" medicine (EBM) and "best-practices."
[More...](#)



Dr. Peter Pronovost
on The Science of Safety
The Science of Safety is a nationwide movement to advance patient safety through education on critical Hospital Acquired Conditions (HAC) like Blood Stream Infections (BSI).
[More...](#)

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
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Appl. No. : 09/997,962
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Applicant : Robert Hanson et al.

Filing Date : November 29, 2001
Title : Drug Delivery Device
Incorporating a Tracking Code

Examiner : Dilek B. Cobanoglu

Docket No. : 026436-9073-US01

DECLARATION OF MOLLY S. LAWSON

I, Molly S. Lawson, hereby declare:

1. I am an attorney at Michael Best & Friedrich LLP ("Michael Best"). I am a U.S. citizen. I have firsthand knowledge of the following facts.
2. The inventors of U.S. Application No. 09/997,962 (hereinafter the "Application") are Robert Hanson, Barry Sudduth, and Don Detar (hereinafter the "Inventors").
3. The Inventors assigned their rights in the Application to Docusys, Inc. as evidenced by the assignment recorded March 4, 2002 at reel 012695 and frame 0777.
4. An unexecuted declaration was filed by a previous law firm on November 29, 2001 for the Application.
5. Mr. Sudduth has signed a Declaration and Power of Attorney form for the Application on November 28, 2011, which is filed with the present petition.
3. Mr. Detar has refused to sign a Declaration and Power of Attorney form for the application as evidenced by the email dated January 3, 2012 sent by Mr. Detar to Tom Cleveland

from his last-known email address, which was forwarded to me by Mr. Cleveland on January 4, 2012 (a copy of the forwarded email chain is attached as Exhibit A and see Declaration of Tom Cleveland submitted with the present petition).

4. On January 4, 2012, Mr. Cleveland informed me of his inability to reach or receive a response from Mr. Hanson despite multiple inquiries.

5. On January 4, 2012, I contacted Mr. Hanson at his last-known home phone number but was unable to leave a message due to the voicemail box being full. On this same day, I called the general number for ShareSafe Media (615-690-7840), on whose website Mr. Hanson is listed as the Chief Executive Officer (screen shots of ShareSafe Media's websites are attached as Exhibit B). I left a message but I did not receive a response.

6. On January 4, 2012, I prepared a letter to Mr. Hanson including copies of the following documents in reference to the Application:

- a. a Declaration and Power of Attorney form; and
- b. the Application, allowed claims, and Notice of Allowance.

The letter requested that Mr. Hanson review the Application and the allowed claims and return an executed Declaration form to us by January 12, 2012. The letter also stated that if an executed Declaration was not received from Mr. Hanson by January 12, 2012, this action would be considered a refusal of Mr. Hanson to join in the application (a copy of the letter and the Declaration is attached as Exhibit C).

7. The package was shipped by my assistant Michele Berg via FedEx under tracking number 797911403449 to the last-known address of Mr. Hanson:

5713 Regency Ct N
Mobile, AL 36609

The package was delivered on January 5, 2012 (a copy of the delivery confirmation is attached as Exhibit D).

8. On January 5, 2012, I prepared a second letter to Mr. Hanson correcting the deadline for providing an executed Declaration from January 12, 2012 to January 9, 2012 (based on the issue fee for the Application being due January 11, 2012) (a copy of the second letter is attached as Exhibit E).

9. The second letter was shipped by my assistant Mary Koceja via FedEx under tracking number 793084360106 to the last-known address of Mr. Hanson:

5713 Regency Ct N
Mobile, AL 36609

The second letter was delivered on January 9, 2012 (a copy of the delivery confirmation is attached as Exhibit F).

10. On January 9, 2012, I called Mr. Hanson at his last-known home phone number but again was unable to leave a message due to the voicemail box being full.

11. As of the date of the present Declaration, I have received no response from Mr. Hanson.

12. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Molly S. Lawson
Molly S. Lawson

1/11/2012
Date

EXHIBIT A

Lawson, Molly S (14749)

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I enclose the copy of the issue notice and the claims which will grant, as well as the declaration, which asks you to confirm that you are the inventor.

If you can sign and send the document back electronically, we can submit it to the USPTO.

Let me know if you have any questions.

Thanks.

Tom

Tom Cleveland
Director, Intellectual Property

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EXHIBIT B

Robert Hanson

<http://sharecafemedia.com/index.php/robert-hanson>



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Robert Hanson

Chief Executive Officer

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Robert Hanson

Donald Weiss

Mark Williams, MD, MBA, JD

Curtis James

Randy Hunter

Eric Vohr

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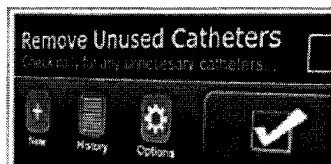
Offices

ShareSafe Media
2948 Sidco Drive, Suite 205
Nashville, TN 37204

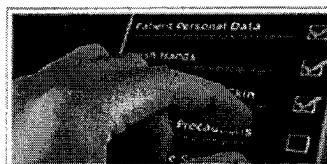
Phone (615) 690-7640

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Save Lives. Save Money.
Safety Protocols can Improve R.O.I
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Safe & Proven Protocols
Safety Protocols Can Save Lives
ShareSafe's focus is on proven safety interventions based on "evidence-based" medicine (EBM) and "best-practices."
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Dr. Peter Pronovost
on The Science of Safety
The Science of Safety is a nationwide movement to advance patient safety through education on critical Hospital Acquired Conditions (HAC) like Blood Stream Infections (BSI).
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EXHIBIT C



Michael Best & Friedrich LLP
Attorneys at Law
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202-4108
Phone 414.271.6560
Fax 414.277.0656

Molly S. Lawson
Direct 414.347.4749
Email mslawson@michaelbest.com

January 4, 2012

VIA FEDEX (TRACKING NO. 797911403449)

Robert Hanson
5713 Regency Ct N
Mobile, AL 36609

Re: U.S. Patent Application Entitled "DRUG DELIVERY DEVICE INCORPORATING A TRACKING DEVICE"
Application No. 09/997,962
Filing Date: November 29, 2001
MBF File No. 026436-9073-01

Dear Mr. Hanson:

My firm, Michael Best & Friedrich LLP, represents Merge Healthcare, Inc. and we are currently prosecuting the above-identified U.S. patent application in the U.S. Patent and Trademark Office. You are listed as an inventor for this application and you assigned your rights in the patent to Docusys, Inc. on January 28, 2002. This application was subsequently purchased by Merge Healthcare, Inc. (a.k.a., Merge eMed, Inc.) pursuant to a General Assignment of Intellectual Property dated March 25, 2010 (a copy of which is enclosed for your reference).

For every patent application, the U.S. Patent Office requires each named inventor to sign a declaration certifying that he or she is a properly-named inventor for the claimed subject matter of the application, regardless of whether the inventor has assigned his or her rights to another entity. This signed declaration is required within approximately 3 months of filing the application. The previous firm handling this application mistakenly filed an unexecuted declaration with the application.

This application has now been allowed. In preparing to grant a patent on this application, the U.S. Patent Office discovered the error with the declaration and is now requesting a signed declaration. Therefore, Mr. Tom Cleveland and I have been attempting to contact you to secure your signature on a declaration.

Accordingly, we have enclosed copies of the following documents in reference to the above-identified application:

1. A Declaration and Power of Attorney form; and
2. The application, allowed claims, and Notice of Allowance.

After you have reviewed the application and the allowed claims, please sign and date the Declaration form. If any of your personal information on the form is incorrect, please cross out

MICHAEL BEST

& FRIEDRICH LLP

Mr. Robert Hanson
January 4, 2012
Page 2

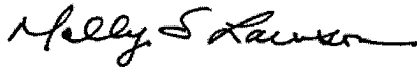
the incorrect information, write in the correct information, and initial and date the change.
Please use the enclosed, prepaid FedEx envelope to return the executed document to us.

If we do not receive the executed Declaration form from you by January 12, 2012, we will
assume that you refuse to join in the patent application as an inventor.

If you have any questions or need further information, please let us know.

Sincerely,

MICHAEL BEST & FRIEDRICH LLP



Molly S. Lawson
Associate

MSL
Enclosures
cc: Tom Cleveland
Carlo M. Cotrone

Declaration for Utility or Design Patent Application (37 C.F.R. § 1.63)
and Power of Attorney

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled DRUG DELIVERY DEVICE INCORPORATING A TRACKING CODE (Attorney Docket No. 026436-9073-01), the specification of which was filed with my authority, on November 29, 2001 as Application Serial No. 09/997,962.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in 37 C.F.R. § 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

As a named inventor, I hereby appoint the registered practitioners associated with the customer number identified below as my attorneys or agents to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith; and request that the Office direct all communications in or pertaining to this application to:

Customer Number

23409

Statement of Domestic Priority I hereby claim priority benefit under 35 U.S.C. § 119 of the provisional U.S. patent applications listed below:

Application Serial No.
60/253,911

Filing Date
29 November 2000

Authorization To Permit Access to Application by Participating Offices

☒ If checked, the undersigned hereby grants the USPTO authority to provide the European Patent Office (EPO), the Japan Patent Office (JPO), and any other intellectual property offices in which a foreign application claiming priority to the above-identified application is filed access to the above-identified patent application. See 37 C.F.R. § 1.14(c) and (h). This box should not be checked if the applicant does not wish the EPO, JPO, or other intellectual property office in which a foreign application claiming priority to the above-identified application is filed to have access to the application.

In accordance with 37 C.F.R. § 1.14(h)(3), access will be provided to a copy of the application-as-filed with respect to: 1) the above-identified application, 2) any foreign application to which the above-identified application claims priority under 35 U.S.C. § 119(a)-(d) if a copy of the foreign application that satisfies the certified copy requirement of 37 C.F.R. § 1.55 has been filed in the above-identified U.S. application, and 3) any U.S. application from which benefit is sought in the above-identified application.

In accordance with 37 C.F.R. § 1.14(c), access may be provided to information concerning the date of filing the Authorization to Permit Access to Application by Participating Offices.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first joint inventor: Robert Hanson

Inventor's signature: _____ Date: _____
Residence: Mobile, AL
Citizenship: United States of America
Post Office Address: 5713 Regency Court North
Mobile, AL 36609

Full name of second joint inventor: Barry Sudduth

Inventor's signature: Barry C. Sudduth Date: 11/28/11
Residence: Central, SC
Citizenship: United States of America
Post Office Address: 120 Stepping Stone Way
Central, SC 29630

Full name of third joint inventor: Don Detar

Inventor's signature: _____ Date: _____
Residence: Lilburn, GA
Citizenship: United States of America
Post Office Address: 4211 Weston Drive
Lilburn, GA 30047

EXHIBIT D

Page 1 of 2



Ship

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EXHIBIT E



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Milwaukee, WI 53202-4108
Phone 414.271.6560
Fax 414.277.0656

Molly S. Lawson
Direct 414.347.4749
Email mslawson@michaelbest.com

January 5, 2012

VIA FEDEX (TRACKING NO. 793084360106)

Robert Hanson
5713 Regency Ct N
Mobile, AL 36609

Re: U.S. Patent Application Entitled "DRUG DELIVERY DEVICE INCORPORATING A
TRACKING DEVICE"
Application No. 09/997,962
Filing Date: November 29, 2001
MBF File No. 026436-9073-01

Dear Mr. Hanson:

As a follow-up to my letter dated January 4, 2012, please note that the previous letter included an incorrect deadline for receiving the executed Declaration. The U.S. Patent Office is requiring the signed declaration by January 11, 2012. Therefore, to provide us adequate time to file the executed Declaration, if we do not receive the executed Declaration form from you by January 9, 2012, we will assume that you refuse to join in the patent application as an inventor.

If you have any questions or need further information, please let us know.

Sincerely,

MICHAEL BEST & FRIEDRICH LLP

A handwritten signature in cursive script that reads "Molly S. Lawson".

Molly S. Lawson
Associate

MSL

cc: Tom Cleveland
Carlo M. Cotrone

EXHIBIT F

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